

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

LUIS ORTIZ MARTINEZ,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:22-CV-14-WHA-KFP
)	
JASON SMOAK., et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Plaintiff Luis Martinez filed this pro se 42 U.S.C. § 1983 action on January 7, 2022. The Court's Order of January 25, 2022, advised Plaintiff that he must inform the Court immediately of any change of address and that failure to do so within ten days would result in dismissal. Doc. 4. The docket reflects that Plaintiff received this Order.

On March 28, 2022, the postal service returned as undeliverable Plaintiff's copy of a previous Order (Doc. 12) that was mailed by the Clerk to Plaintiff at his address of record. Accordingly, on March 30, 2022, the Court ordered that by April 13, 2022, Plaintiff must show cause why this case should not be dismissed for failure to comply with court orders and prosecute this action. Doc. 14. That Order specifically informed Plaintiff that the administration of this case could not proceed if his whereabouts remained unknown and cautioned that failure to comply with the Order would result in dismissal. *Id.* Plaintiff's copy of the Order was returned on April 11, 2022, as undeliverable.

Because of Plaintiff's failure to comply with the Court's orders, the undersigned concludes this case should be dismissed without prejudice. *Moon v. Newsome*, 863 F.2d

835, 837 (11th Cir. 1989) (stating that dismissal for failure to obey a court order is generally not an abuse of discretion where litigant has been forewarned). The authority of courts to impose sanctions for failure to prosecute or obey an order is longstanding and acknowledged by Rule 41(b) of the Federal Rules of Civil Procedure. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962). This authority empowers the courts “to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Id.* at 630–31; *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (holding that “[t]he district court possesses the inherent power to police its docket.”). “The sanctions imposed [upon dilatory litigants] can range from a simple reprimand to an order dismissing the action with or without prejudice.” *Id.*

For the above reasons, the undersigned Magistrate Judge RECOMMENDS that this case be DISMISSED without prejudice.

Further, it is ORDERED that by **April 29, 2022**, the parties may file objections to this Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made. Frivolous, conclusive, or general objections will not be considered by the Court. The parties are advised that this Recommendation is not a final order and, therefore, is not appealable.

Failure to file written objections to the Magistrate Judge’s findings and recommendations in accordance with 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waive the right of the party to challenge on appeal the District Court’s order based on unobjected-to factual and legal conclusions accepted or adopted by

the District Court except on grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Reynolds Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982); *see also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 15th day of April, 2022.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE